



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

J.M. Raffauf
Attorney at Law
1064 Wachovia Building
315 W. Ponce De Leon
Decatur, Georgia 30030

SEP 21 2005

RE: MUR 5622
Cynthia McKinney for Congress and
Joan Christian, in her official
capacity as Treasurer

Dear Mr. Raffauf:

On September 19, 2005, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of violations of 2 U.S.C. §§ 441a(f) and 434(b), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"), and 11 C.F.R. §§ 104.3, 104.11, 110.1, and 110.2. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1548.

Sincerely,

A handwritten signature in black ink that reads "Elena Paoli". The signature is fluid and cursive.

Elena Paoli
Attorney

Enclosure: Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

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In the Matter of)
)
Cynthia McKinney for Congress) MUR 5622
Joan Christian, in her official capacity as treasurer)

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities.

On November 30, 2004, the Commission found reason to believe that Cynthia McKinney for Congress and Elyria Mackie, in his official capacity as treasurer, ("Respondents") violated 2 U.S.C. §§ 441a(f) and 434(b) of the Federal Election Campaign Act of 1971, as amended ("the Act"), and 11 C.F.R. §§ 104.3, 104.11, 110.1 and 110.2.¹

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

- I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).
- II. Respondents enter voluntarily into this agreement with the Commission.
- III. The pertinent facts in this matter are as follows:
 1. Respondents are Cynthia McKinney for Congress ("the Committee"), the principal campaign committee supporting the re-election of Cynthia McKinney

¹ On July 12, 2005, Cynthia McKinney for Congress filed an amended Statement of Organization to reflect that Joan Christian assumed the responsibilities of treasurer.

for Congress during the 2002 election cycle, and Joan Christian, in her official capacity as the Committee's treasurer.

2. Since shortly after the 2000 General Election through December 2002, the Committee reported the receipt of \$993,376.75 in total contributions: \$795,892.45 was designated for the 2002 Primary Election; \$64,875 was designated for the 2002 General Election; and \$132,549.30 was unitemized.
3. In its 2002 October Quarterly Report, the Committee disclosed \$10,600 in primary election contributions and \$6,000 in general election contributions that the Reports Analysis Division ("RAD") of the Commission identified as excessive on their face.
4. After the candidate lost the primary election on August 20, 2002, all of the contributions received for the general election became excessive because the Committee failed to either redesignate, reattribute, or refund the contributions within 60 days, as required by 11 C.F.R. § 110.1(b)(3)(i).
5. On February 4, 2003, RAD asked the Committee to amend the report to reflect any timely reattributions or redesignations and, because the candidate lost the primary, to refund all of its general election contributions.
6. The Committee did not respond to the Request for Additional Information ("RFAI"), and, on February 27, 2003, RAD sent a second notice.
7. On March 19, 2003, the Committee amended the 2002 October Quarterly Report, amending the designation for 201 contributions made prior to the August 2002 primary, which were previously reported as general election contributions, to clarify that they were primary election contributions.

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8. Although the Committee did not provide a written explanation or supporting documentation, RAD accepted the amendments to \$101,668.78 in contributions as correcting a previous reporting error that designated the contributions for the general election rather than the primary.
 9. The amended 2002 October Quarterly Report increased the amount of excessive primary contributions from \$10,600 to \$42,200 and left a total of \$63,475 in excessive general election contributions.
 10. In a letter dated March 24, 2003, the Committee informed the Commission that it had refunded 39 excessive primary and general election contributions totaling \$31,080 and enclosed copies of the fronts of refund checks; however, the Committee did not mail the refund checks to the payees.
 11. The Committee's 2003 April Quarterly Report, filed on April 15, 2003, failed to disclose as disbursements the refunds referenced in the Committee's March 24, 2003, letter, and reported the refunds as debt carried by the Committee on Schedule D.
 12. On April 22, 2003, RAD sent an RFAI regarding discrepancies between the Committee's March 24, 2003, letter, which reported refunds had been sent, and the 2003 Quarterly Report, which reported the refunds as debt. The Committee did not respond to the RFAI or a second notice sent by RAD referencing the RFAI.
 13. In its October 2003 October Quarterly Report, the Committee reported that it refunded \$9,999 in contributions designated for the 2002 Primary more than 60 days after the refunded amounts became excessive.

14. In June 2004, the Committee filed a miscellaneous disclosure dated June 8, 2004 that contained copies of refund checks payable to six individual contributors who had made a total of \$6,100 in excessive primary contributions.
15. The Committee's miscellaneous disclosure also contained copies of refund checks to contributors to the general election campaign totaling \$1,200.
16. Taking into account the Committee's amended designations, the Committee accepted \$106,425 in excessive contributions – \$42,950 designated for the 2002 Primary Election and \$63,475 designated for the 2002 General Election.
17. The Committee's disclosure reports showed that it refunded a total of \$34,199 of excessive Primary and General Election contributions, leaving \$72,226 of \$106,425 in unrefunded excessive contributions.
18. Shortly after being notified of the Commission's findings, the Committee hired an independent accountant to audit all of the contributions received in the 2002 election cycle. According to the Committee, the audit found that the Committee received \$1,034,874.54 in contributions: \$825,824.88 for the Primary Election, \$25,631 for the General Election, and \$183,428.66 that was unitemized. According to the Committee, the audit also revealed that, of these amounts, the Committee accepted \$82,919.99 in excessive contributions, including \$56,203.99 for the Primary Election and \$25,631 for the General Election contributions. According to the Committee, in calculating these numbers, the Committee's accountant subtracted from the total amount of excessive contributions reattributions and redesignations that were made or could have been made in accordance with 11 C.F.R. §§ 110.1 and 110.2 during the 2002 election cycle.

19. The Committee admits that the FEC disclosure reports it filed during the 2002 Election Cycle contain hundreds of data entry errors, including approximately \$45,450 in double-reported contributions.

IV. Respondents committed the following violations:

1. Respondents knowingly accepted excessive contributions relating to the 2002 Primary Election in violation of 2 U.S.C. § 441a(f) and 11 C.F.R. §§ 110.1 and 110.2.
2. Respondents knowingly accepted excessive contributions relating to the 2002 General Election in violation of 2 U.S.C. § 441a(f) and 11 C.F.R. §§ 110.1 and 110.2.
3. Respondents carried debt in the form of unrefunded excessive contributions and failed to report the debt as required 2 U.S.C. § 434(b) and 11 C.F.R. §§ 104.3 and 104.11.

V. Respondents will take the following actions:

1. Respondents will pay a civil penalty to the Federal Election Commission in the amount of thirty-three thousand dollars (\$33,000), pursuant to 2 U.S.C. § 437(g)(5)(A).
2. Respondents will refund all remaining excessive contributions received for the 2002 Primary and General Elections to the original contributors.
3. Respondents will cease and desist from violating 2 U.S.C. §§ 434(b)(8) and 441a(f) and 11 C.F.R. §§ 104.3, 104.11, 110.1 and 110.2.
4. Respondents will amend all of the Committee's disclosure reports to the Commission that are affected by the matters discussed herein.

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5. The Respondents agree to have an independent accounting or compliance firm conduct a compliance audit of the Committee each calendar year for a three-year period, beginning with calendar year 2004. The scope of the audit shall include an examination of the following:
 - a. contributions received to ascertain whether any contribution is excessive;
 - b. the disclosure of contributions and of disbursements, debts and obligations;
 - c. the consistency between reported figures and bank records; and
 - d. the completeness of records.
 6. The Respondents agree to submit a report of the audit findings to the Commission upon completion of each audit. Respondents will submit the report covering calendar year 2004 within ninety (90) days after the date on which the Commission accepts this agreement. For calendar years 2005 and 2006, Respondents will submit the report no later than April 1 of the following year. Respondents further agree that the audit report will be certified by an authorized representative of the independent firm and, in the event that person is not a certified public accountant, also by a certified public accountant.
 7. The Respondents will require the Committee treasurer and other appropriate personnel responsible for complying with the Act and Commission regulations, including the person who prepares its disclosure reports, to attend a Commission-sponsored training program for candidate committees within one year of the effective date of this agreement. Respondents shall submit evidence of registration and attendance at such event to the Commission.
 8. Respondents will amend their reattribution and redesignation forms to conform to the Commission's regulations.

VI. The Commission, on request of anyone filing a complaint under 2 U.S.C.

§ 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

VIII. Except as otherwise provided, Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

IX. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either

Continued on next page.

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written or oral, made by either party or by agents of either party, that is not
contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence H. Norton
General Counsel

BY: *Rhonda J. Vording*
Rhonda J. Vording
Associate General Counsel
For Enforcement

9/20/05
Date

FOR THE RESPONDENTS:

Joan Christian, Treasurer
Joan Christian
Treasurer, Cynthia McKinney for Congress

8/26/2005
Date

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